

Appl. No. 09/950,052
Atty. Docket No. P164R&•
Amdt. Dated: 3/7/05
Reply to Office Action of September 9, 2004
Customer No. 27752

REMARKS

Upon entry of the amendments and cancellation herein, Claims 1 and 15 – 22 will be pending; Claims 2 – 14 have been cancelled.

New Claims 15 – 22 are supported throughout the present specification as filed. In particular, Claims 15 and 18 each find support at, for example, page 10 of the specification. Claims 16, 20, and 21 each find support at, for example, pages 8 and 9 of the specification. Claims 17 and 22 each find support at, for example, pages 7 and 8 of the specification.

Pursuant to the Examiner's request, Applicants have amended the title of the specification and have updated the status of the related application. In addition, the present application, filed as a continuation-in-part application, recites Examples I and II at pages 7 – 10 (whereas the parent application did not). Applicants do not represent or warrant that these are the only additions to the present application.

The Rejections Under 35 U.S.C. 102(b)

Claims 1, 4, and 5 – 7 had been rejected under 35 U.S.C. 102(b), characterized by the Examiner as being based on Applicants' admissions. Claim 1 as amended herein now specifically recites mannoheptulose, which compound was the subject of non-rejected former Claim 2. All claims are dependent (either directly or indirectly) on amended Claim 1 and, as such, this rejection is now moot and should be withdrawn.

Similarly, Claims 1 and 3 had been rejected under 35 U.S.C. 102(b), characterized by the Examiner as being anticipated by Francesconi. In addition, Claims 1, 6, and 7 had been rejected under 35 U.S.C. 102(b), characterized by the Examiner as being anticipated by Sakata. Claim 1 as amended herein now specifically recites mannoheptulose, which compound was the subject of non-rejected former Claim 2. All claims are dependent (either directly or indirectly) on amended Claim 1 and, as such, this rejection is now moot and should be withdrawn.

Claim 1, 2, and 8 have been rejected under 35 U.S.C. 102(b) as being anticipated by Nutrition Reviews. It is noted that Claims 2 and 8 have been canceled herein; amended Claim 1 specifically recites mannoheptulose. Arguments herein with respect to Nutrition Reviews are in view of amended

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Claim 1 reciting mannoheptulose, as well as the remaining dependent claims. In particular, Claim 1 and its dependents are directed to methods of mimicking caloric restriction without reliance on food deprivation comprising administration of the mannoheptulose. Nutrition Reviews fails to teach or even suggest caloric restriction mimetic activity as it is strictly based on a recognition of hyperglycemic effects of mannoheptulose. Moreover, such recognized hyperglycemic effects are based on fasting mannoheptulose administration, whereas the pending claims as amended herein recite mimicking caloric restriction without reliance on food deprivation. As such, Nutrition Reviews fails to anticipate or even suggest the presently pending claims and the rejection should be promptly withdrawn.

The Rejections Under 35 U.S.C. 112

Claims 1 – 8 have been rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. Claims 2 – 8 have been canceled herein, and Claim 1 has been amended for specific recitation of use of mannoheptulose. As such, the factors recited by the Examiner are not applicable to the claims as amended herein. For example, many of the recited factors relate to numbers of compounds whereas the claims as pending recite only mannoheptulose. Moreover, examples directed to mannoheptulose and its use and preparation are set forth in Examples I and II of the present specification. The rejection is therefore misplaced in view of the claims as amended herein and should be withdrawn.

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CONCLUSION

Applicant therefore respectfully requests that the Examiner withdraw the rejections under 35 U.S.C. §§ 102(b) and 112 and allow Claims 1 and 15 – 22 as amended and otherwise presented herein. If the Examiner believes that personal contact would be beneficial for disposition of the present application, the Examiner is respectfully requested to contact the undersigned.

Respectfully submitted,

THE PROCTER & GAMBLE COMPANY

By Kelly L. McDow-Dunham

Signature

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